IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 65 OF 1988.

The Commissioner of Income-tax. ... Applicant.

V/s.

M/s.Bombay Burmah Trading
Corpn. Ltd. ... Respondent.

Ashok Kotangale i/b. K.C.Sidwa
for the applicant-revenue.

Sudhir Mehta for the respondent-assessee.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 27th June 2005.

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

> "Whether on the facts and in the circumstances of the case, the Double Income Tax u/s.91(1) is to be allowed in respect of entire income arising in one country outside India without setting off the loss incurred in another in respect of net income arising outside India which has gone into the computation of Total income u/s.5(1)(c) of the I.T. Act?"

. Learned counsel for the parties agreed that in view of the decision of this Court in assessee's own case reported in (2003) 126 TAXMAN 403 (**C.I.T. v. Bombay Burmah Trading Corpn. Ltd.**), the question referred to us has to be answered in the affirmative i.e. in favour of the assessee and against the revenue. We answer the question accordingly.

. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**